

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Re: Commission Information Collection Activities
FERC Form 603 re: Requests for CEII

Docket No. IC20-13-000

COMMENTS OF THE EASTERN INTERCONNECTION PLANNING
COLLABORATIVE

The Eastern Interconnection Planning Collaborative (EIPC), a coalition of nineteen regional Planning Authorities that collectively represent more than 95% of the electricity capacity of the Eastern Interconnection, appreciates this opportunity to comment on the Federal Energy Regulatory Commission's (Commission's) proposal, as set forth in its March 23 Notice and Request for Comments ("March 23 Notice"), to extend FERC Form 603 with no changes to the current reporting requirements.¹

As noted in the Commission's March 23 Notice, Form 603 is a request form submitted to the Commission by individuals seeking to obtain Critical Energy/Electric Infrastructure Information (CEII) from the Commission. With the exception of requiring a signature from the entity attesting to the accuracy of the information provided, the Commission proposes no changes to the form. March 23 Notice at p. 4. For the reasons stated below, the EIPC urges the Commission to revamp Form 603 (and the associated CEII process, which utilizes the information obtained in that form) rather than continue to utilize a form which, in the EIPC's view, does not provide adequate protections against the release of CEII (and specifically the detailed grid information included in Parts 2, 3 and 6 of FERC Form 715). EIPC seeks the opportunity to work with the Commission and its Staff on reforms that would ensure adequate protection of this CEII information while also respecting access to this information by stakeholders where warranted.

Description of the EIPC

The EIPC is a coalition of nineteen regional Planning Authorities that collectively represent more than 95% of the electricity capacity of the Eastern Interconnection.² The EIPC undertakes numerous interconnection-wide coordination activities including a

¹ While ISO New England, Inc. is a member of EIPC, it does not join in this submittal.

² The Planning Authorities which constitute the EIPC are Associated Electric Cooperative, Cube Hydro Carolinas, Dominion Energy South Carolina, Duke Energy-Carolinas, Duke Energy-Florida, Duke Energy-Progress, Florida Power & Light, Georgia Transmission Corporation, ISO-New England, LGE/KU (Louisville/Kentucky Utilities), MidContinent ISO, Municipal Electric Authority of Georgia, New York ISO, PJM Interconnection, PowerSouth Energy Cooperative, Santee Cooper, Southern Company, Southwest Power Pool and the Tennessee Valley Authority.

periodic ‘roll-up’ review of each EIPC Member’s transmission expansion plans so as to ensure that the transmission planning activities of the individual EIPC members are coordinated on an interconnection-wide basis in order to maintain and enhance the reliability of the Eastern Interconnection as a whole. This information, together with additional detail on the EIPC and its initiatives, is made available to policy-makers and regulators at www.eipconline.org.

Concerns of the EIPC With the Present Content of Form 603

Members of the EIPC all share the same priority: delivering reliable electric energy to our respective customers. An important aspect of promoting reliability is the protection of data and information that could be used to identify and exploit vulnerabilities in the electric grid. This was an initial driver for the Commission to reconsider its treatment of data related to CEII following the September 11 attacks. Through the Fixing America’s Surface Transportation Act signed by the President on December 4, 2015, Congress underscored its intention that this critical information be adequately protected. *See e.g.* Fixing America’s Surface Transportation Act, Pub. L. No. 114-94, 61,003, 129 Stat. 1312, 1773-1779 (2015) (to be codified at 16 U.S.C. 824 *et seq.*).

The EIPC is concerned that the requirements of Form 603 are insufficient to guard against transmission related CEII falling into the wrong hands. Specifically, Form 603 would allow for access to certain highly confidential information embodied in Parts 2, 3 and 6 of FERC Form 715. In fact, the Commission frequently receives and grants public requests for FERC Form 715 data under its existing CEII procedures. Parts 2, 3 and 6 of the Form 715 report includes data that arguably, in the past, may not have been sufficient for malicious actors to use in planning an attack on the bulk power system. However, given the advancement of technology and proliferation of cyber attack information, such data could allow vulnerabilities of the bulk power system to be exploited leading to widespread damage and prolonged loss of service.

Specifically, Form 603’s “Statement of Need” invites the requester to provide mere conclusory statements as to “the extent to which a particular function (of the requestor) is dependent upon access to the information” and whether the entity’s activities “cannot be achieved or performed without access to the information”. No guidance is provided in the Form or its instruction as to the specific showing needed to satisfy this broad inquiry nor does the form require that any supporting documentation be provided to support the requester’s response. Also, there is no guidance with respect to the destruction or disposal of the data. Moreover, the Commission has consistently overruled objections filed by many EIPC members, as well as other industry organizations, raising concerns as to the lack of specificity in the statements made by requesters in response to the Form’s questions. In particular, objections have been filed and routinely overruled concerning the lack of specificity as to the requestor’s need for and intended use of the requested information. *See as examples* Notice of Intent to Release, CEII No. CE19-074 (Sept. 23, 2019); Notice of

Intent to Release, CEII No. CE19-022 (Sept. 11, 2019); Notice of Intent to Release, CEII No. CE19-054 (May 15, 2019).

Rather than focusing solely on whether the requester needs the information to support *its* line of business (e.g. consulting, academic studies etc.), Form 603 should require a showing by the requester as to how dissemination of the information would advance the specific reliability responsibilities of the Commission, NERC and system planners and operators. *In short, rather than simply advancing the requester's line of business, the focus should also require a demonstration that dissemination of the information would enhance the work of those entities charged with ensuring bulk power reliability of the electric grid i.e. the Commission, DOE, NERC, state PUCs, NERC Reliability Coordinators and system planners and operators while maintaining the security of the grid.* The “Statement of Need” should be amended to include such a showing.

By the same token, Form 603 calls for a signed statement as to the accuracy of the information provided as well as an executed Non-Disclosure Agreement (NDA). The Commission evidently uses these documents as the principal means to ensure that the requested CEII is not misused. Terrorist organizations will hardly be deterred by the requirement to attest to a form or to sign an NDA. As a result, the Commission’s perpetuating an enforcement system based on the signing of documents is inadequate, standing alone, to ensure the protection of this critical information from being used inappropriately.³ The EIPC believes that more limited Commission dissemination of information on the front end (including more careful consideration rather than boilerplate summary dismissals of the objections that are filed to public release) is far superior to the proposed requirement for attestation of Form 603 and the signing of an NDA. Steps such as allowing:

- a) limited and overseen ‘view access’ inspection;
- b) requiring the requestor to show how they limited the breadth of their request; or
- c) requiring the sharing of only a specific subset of cases and information rather than the entire case library requested

would be superior to today’s mere hope that a requesting party is abiding by the limitations that it has signed as part of an NDA. As noted below, the EIPC stands ready to work with the Commission to detail those alternatives. Through an open dialogue, the EIPC and FERC may identify key vulnerabilities in the current process that may have simple, straightforward and non-burdensome solutions.

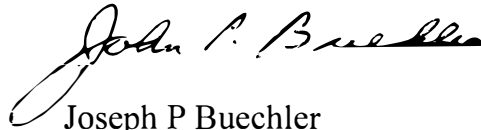
³ In addition, the Commission has never explained how it actually enforces the provisions of the NDA so as to ensure that a third party, not regulated by the Commission, is complying with its terms.

EIPC Request for Meeting

Given that the EIPC consists of all of the major bulk electric system planners in the Eastern Interconnection of the United States, it is in a unique position to serve as a resource to the Commission on this important issue. Rather than perpetuating today's inadequate Form 603, EIPC suggests a more holistic revamp of both the form and the process based on the points raised in this pleading.

While the EIPC has suggested revisions to the Form itself, it would welcome the opportunity to meet with the Commission and its Staff and work to ensure that the CEII rules meet the dual requirements of protecting against the widespread dissemination of CEII information while allowing a channel for reasonable public requests for access to this information where appropriate.

Respectfully Submitted:

A handwritten signature in black ink, appearing to read "John P. Buechler", with a stylized, flowing script.

Joseph P Buechler

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